IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16603 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASHOKBHAI DANAJI BAROT

Versus

DEVIKABEN DEVJIBHAI

Appearance:

1. Special Civil Application No. 16603 of 2003

MR VIMAL M PATEL for Petitioner No. 1

MR KG SHETH for Respondent No. 1

MR DHAVAL K SHETH for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 13/10/2004

ORAL JUDGEMENT

1. RULE. Mr.K G Sheth learned advocate waives

service of rule on behalf of respondent no.1.

2. The petitioner herein has preferred this petition in order to quash and set aside the order dated 11/03/1999 below exh.17 passed by the City Civil Court at Ahmedabad in H.M.P. No.255 of 1997.

3. While issuing Notice on 01/12/2003, by way of interim arrangement, the Court had directed the petitioner to pay an amount of maintenance at the rate of Rs.1500/- per month to the respondent wife with effect from 01/06/2003. It was further directed that while calculating the said amount, if any amount was paid in compliance with the order passed by the ld. Magistrate under Section 125 of CrPC, the same should be included and adjusted. The arrears amount qua the payment of Rs.1500/- per month with effect from 01/06/2003 was directed to be paid within 30 days from the date of the Notice. On the above condition, ad-interim relief in terms of para-13(B) of the petition was granted. On 25/03/2004, this Court had directed the petitioner to deposit an amount of Rs.2500/- by way of cost of this petition.

4. I have heard learned counsel for the parties and perused the relevant documents on record. The petitioner is directed to pay an amount of Rs.1500/- per month (Rupees Fifteen Hundred Only) to the respondent from the date of the filing of the application before the trial Court till the said application is heard and decided along with all the arrears. The amount of Rs.2500/- which has been deposited by the petitioner, as per the order dated 25/03/2004, is directed to be paid to the respondent. The amount which is already paid by the petitioner shall be adjusted against the aforesaid amount.

5. The trial Court is directed to hear exh.17 application within a period of two months from the date of receipt of writ of this order. However, it is made clear that the trial Court shall not be influenced by the fact that Rs.1500/- has been fixed as ad-hoc interim maintenance and shall pass orders in accordance with law.

6. With the above directions, the petition is disposed of. Rule is made absolute to the above extent. Direct service is permitted. Interim relief stands vacated.

(K. S. Jhaveri, J.)

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